



1764

PATENT

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 4-7-2004

Kathleen Finney
Kathleen Finney

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/747,184

Attorney Docket: DP-302454

Filing Date: 12/21/2000

Group Art Unit: 1764

Applicant: Gregory Thomas Roth

Examiner: Tran, Hien Thi

Title: INTEGRATED CATALYTIC CONVERTER
AND FLEXIBLE ENDCONE ASSEMBLY

MS Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

PROVISIONAL ELECTION

Sir:

This is in response to the Office Action mailed March 10, 2004, imposing a Restriction Requirement between:

Group I, claims 1-8, directed to an integrated catalytic converter/flexible endcone assembly; and

Group II, claims 9-11, directed to a method for manufacturing an integrated catalytic converter/flexible endcone assembly, and

Group III, claims 12-19, directed to a method for treating exhaust gas.

The language of the Office Action is unclear. The Office Action states, "Since the product is not allowable, restriction is proper between said method of making and method of using. The product claim will be examined along with the elected invention."

First, Applicant contends that the device claims of Group I are allowable and objects to any inference that they are not. Insofar as Applicant is aware, the Patent Office has not examined the claims in Group I and has not made any determination regarding the claims.

Second, since distinction is only discussed between Groups II and III, and in view of the above statement that the product claim will be examined with the elected invention, it is not clear whether the Restriction Requirement seeks election of a single Group, or one of Groups II or III to be examined with Group I.

If the Restriction Requirement seeks election of one Group, Applicant provisionally elects to prosecute the claims of Group I, claims 1-8.

If the Restriction Requirement seeks election of a group to be examined with Group I, Applicant provisionally elects Group II.

Nevertheless, Applicant respectfully traverses the requirement.

The Group I claims, of which claim 1 is representative, call for an integrated catalytic converter/flexible endcone assembly that includes a flexible endcone assembly comprising, as a distinctive feature, a flexible bellow. Group II, based upon claim 9, is directed to a method of making the assembly with the flexible bellow. Group III is directed to a method for treating exhaust gas using the assembly with the flexible bellow. Even a causal read of these claims reveals that they are merely different aspects of but a single invention. Moreover, prior art showing a flexible bellow in an integrated catalytic converter/flexible endcone assembly should

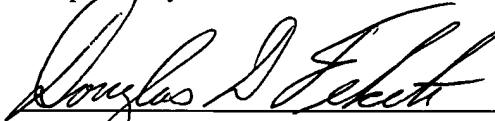
properly be considered in examining all Groups, regardless of where such art is found within the classification scheme of the Patent Office.

Efficiency, both on the part of Applicant, and also on the part of the Patent Office, mandates that, where the distinctive features are the same, all claims should be examined together. Thus, claims to the catalytic converter having the integrated catalytic converter/flexible endcone assembly, its manufacture and its use, should properly be examined in the present application. Moreover, the Restriction Requirement unduly burdens Applicant by requiring him to file and prosecute multiple applications, and pay fees and maintain multiple patents, to obtain the patent protection to which he is entitled.

Therefore, it is respectfully requested that the Restriction Requirement be withdrawn, and that all claims of Groups I, II and III be considered in the present application.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 50-0831.

Respectfully submitted,



Douglas D. Fekete

Reg. No. 29065

Delphi Technologies, Inc.

Legal Staff – M/C 480-410-202

P.O. Box 5052

Troy, Michigan 48007-5052

(248) 813-1213